IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.1386 OF 2004.

Usha Raghunath Pednekar
& Others ..Appellants

versus

Minal Mahendra Pednekar
& Others ..Respondents

Mr. S.G.Gokhale for the petitioner

Mr.Ramchandra Shinde for respondent No.5

Coram : S.R.Sathe, J.
Dated : 12th July, 2007

P.C.

1. Amendment to delete name of appellant No.1 is allowed.

2. Heard both the learned advocates. The learned advocate for the appellant submits that he has no grievance about the finding passed by the first appellate court. However, certain observations in the judgment are such which may affect his interest because the lower court has observed that while effecting the partition particular portion may not be allowed to a particular party or it be allotted to a particular party. He, therefore, submits that directions be

given to the Collector to carry out the partition of the suit property as per the provisions of Section 54 of the Code of Civil Procedure without being influenced by the observations made by the lower court. The learned advocate for the respondent No.5 fairly submitted that he is no objection for the same.

3. The appeal is dismissed. The Collector while executing the partition of the suit property as per the provisions of Section 54 of the Civil Procedure Code should not get influenced by other observations in the judgment of the lower court, but should independently consider the allotment of the shares as per the shares determined by the court.

(S.R.Sathe, J.)